

HON'BLE SRI JUSTICE DUPPALA VENKATA RAMANA

WRIT PETITION (SR) No.21243 of 2023

ORDER:

This Writ Petition for mandamus is filed by the petitioner seeking the following relief:

“....to declare the action of the 4th respondent herein in trying to dispossess/demolish the petitioner's property consisting of a RCC building bearing Municipal Door No.15/454 along with its attached shed with sheets situated in Gajula Veedi, under Sy. No.30/2B/1A1 at Cuddapah (U), YSR Kadapa District, without following due process of law, as illegal, arbitrary and violation of principles of natural justice and in violation of Article 300-A of the Constitution of India and consequently direct the 4th respondent herein not to dispossess/demolish aforesaid property belongs to the petitioner herein, consisting of a RCC building bearing Municipal Door No.15/454 along with its attached shed with sheets, situated in Gajula Veedi, under Survey No.30/2B/1A1 at Cuddapah (u), YSR Kadapa District....”

2. Heard learned counsel for the petitioner, learned Assistant Government Pleader for Municipal Administration and Urban Development appearing for respondents 1 and 2; learned Assistant Government Pleader for Revenue appearing for respondents 3 and 5; and Sri P. Anand Surya, learned counsel representing Sri Suresh Kumar Reddy Kalava, learned Standing

Counsel for respondent No.4, apart from perusing the material available on record.

3. The brief facts of the case are that the petitioner is the absolute owner of the subject property and he purchased the same from his vendors under a registered sale deed No.1099 of 2009, dated 18.03.2009, and has been in uninterrupted possession and enjoyment of the said property from the date of his purchase. It is stated that the petitioner has been paying the municipal property tax regularly under property Tax Assessment No.1013016913. It is stated that the site in question is not the municipal site and it is a private land purchased by the petitioner. The impugned notice, dated 24.05.2023, was issued to the petitioner under Sections 405 and 406 of the A.P. Municipal Corporation Act, 1955 (for short, "the Act") to remove the encroachments said to have been made by him in the disputed property and vacate the site within 72 hours from the date of receipt of the notice.

4. It is the case of the petitioner that the petitioner has submitted a representation, dated 06.08.2022, to respondents 4 and 5 to fix the boundaries of the subject property and without

passing any orders on the above representation, the respondents are trying to dispossess him from the subject property highhandedly, which is illegal, arbitrary and without following due process of law.

5. The fact remains established is that no show-cause notice was given to the petitioner before issuing the impugned notice under Sections 405 and 406 of the Act. Therefore, there is violation of principles of natural justice in issuing the impugned notice by the respondent authorities.

6. Learned counsel for the petitioner submits that the representation of the petitioner, dated 06.08.2022, is not yet disposed of and necessary direction may be given to respondent authorities to pass appropriate orders on the said representation and till then, the petitioner's interest may be protected. Learned Standing Counsel for respondent No.4 concedes to the said request.

7. Having regard to the facts and circumstances of the case and recording the submissions of both the counsel, this Writ Petition is disposed of at the admission stage with a direction to

respondents 4 and 5 to consider the petitioner's representation, dated 06.08.2022, and pass reasoned order according to law, within four weeks from the date of this order. Till the said exercise is completed, the respondents 4 and 5 are directed to maintain status quo with regard to the subject property. No costs.

Consequently, miscellaneous applications, pending if any, shall also stand closed.

JUSTICE DUPPALA VENKATA RAMANA

29.05.2023
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WRIT PETITION (SR) No.21243 of 2023

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